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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,844	08/21/2003	William Crockford	2202.003	3705

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EXAMINER

ELLINGTON, ALANDRA

ART UNIT PAPER NUMBER

2855

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

13

Office Action Summary	Application No. 10/647,844	Applicant(s) CROCKFORD, WILLIAM	
	Examiner Alandra Ellington	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on amendment filed on 2/18/05.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14, 18 and 19 is/are pending in the application.
4a) Of the above claim(s) 15-17 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5, 7-10, 12, 13, 18 and 19 is/are rejected.
- 7) Claim(s) 6-14 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 8/21/03 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/15/03.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Final Rejection

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the *specimen* must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show *the details of claims 1, 6 and 11* as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown

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in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 6 –14 are objected to because of the following informalities:
 - a. With respect to claims 6 and 11, replace "instrumentation embedded in said thickness" with –instrumentation embedded in said membrane --.
 - b. With respect to claim 7, replace "said thickness" with – said membrane --.Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 7-10, 12, 13, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Aufdermarsh et al. (6,084,052) (hereinafter Aufdermarsh).

a. With respect to Claim 1, Aufdermarsh discloses a membrane comprising a flexible film 82 adapted to envelope said specimen and isolate said specimen from the interior of said chamber, said membrane 82 adapted to maintain intimate contact with said specimen, instrumentation 84,86,90 embedded in said membrane for measuring a physical property of a specimen (col. 7 lines 30-53 {Fig. 7}).

b. With respect to Claim 2, Aufdermarsh discloses the membrane of claim 1, wherein said physical property being one of the group consisting of stresses, strains, deformation, temperature, soil suction or moisture content (col. 6 lines 5-55,66-67, col. 6 lines 1-53 {Figs. 4,7}).

c. With respect to Claims 3 and 5, Aufdermarsh discloses the membrane of claim 1 wherein said membrane 82 has a longitudinal axis and a radial axis, said instrumentation 84,86,90 oriented in said membrane 82 to measure said physical property in the longitudinal direction ({Fig. 7}).

- d. With respect to Claim 4, Aufdermarsh discloses the membrane of claim 1 wherein said membrane 82 is tubular, said instrumentation 84,86,90 oriented in said membrane 82 to measure said physical property in the circumferential direction ({Fig. 7}).
- e. With respect to Claim 7, Aufdermarsh discloses the membrane wherein instrumentation 84,86,90 is embedded in said thickness for measuring strains causing deformation of a specimen ({Fig. 7}).
- f. With respect to Claims 8 and 10, Aufdermarsh discloses the membrane of claim 7 wherein said membrane 82 has a longitudinal axis and a radial axis, said instrumentation 84,86,90 oriented in said membrane 82 to measure strains in the longitudinal direction ({Fig. 7}).
- g. With respect to Claim 9, Aufdermarsh discloses the membrane of claim 7 wherein said membrane 82 is tubular, said instrumentation 84,86,90 oriented in said membrane 82 to measure circumferential properties in response to stresses ({Fig. 7}).
- h. With respect to Claim 12, Aufdermarsh discloses the membrane of claim 7 wherein said instrumentation 60,62,84,86,90 includes an instrument for measuring temperature in the specimen (col. 5 lines 18-55, col. 7 lines 4-28).
- i. With respect to Claim 13, Aufdermarsh discloses the membrane of claim 7 wherein said instrumentation 60,62,84,86,90 includes an instrument for measuring moisture content of the specimen (col. 6 lines 1-67, col. 7 lines 1-28 {Fig. 4,5}).

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j. With respect to Claim 18, Aufdermarsh discloses the membrane of claim 1 wherein said flexible film is formed from one of the group consisting of latex rubber, silicone rubber, urethane, or Silastic (col. 2 lines 28-30, col. 5 lines 20-25).

k. With respect to Claim 19, Aufdermarsh discloses the membrane of claim 1 wherein said flexible film 82 is tubular with a continuous sidewall with a cavity formed in said sidewall, said instrumentation 84,86,90 disposed in said cavity ({Fig. 7}).

Response to Arguments

7. Applicant's arguments with respect to claims 1-14, 18 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(4,542,655) (3,992,928)

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alandra Ellington whose telephone number is (571) 272-2178. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alandra Ellington
Art Unit 2855



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PRIMARY EXAMINER